Remarks

Claims 1-12, 14-20, 22 and 23 are pending in the application.

Claims 1-4, 12, 5-9, 14-20, 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rusch (US 6,801,777).

Claims 10, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rusch in view of Ayyagari et al. (US2002/0176366).

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewriting to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the

original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejection Under 35 U.S.C. 103(a)

Claims 1-4, 12, 14-17, and 22

Claims 1-4, 12, 14-17, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rusch. The rejection is traversed.

According to MPEP §2143, to establish a prima facie case of obviousness under §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The Office Action failed to establish a *prima facie* case of obviousness, because Rusch fails to teach or suggest all the claim elements of Applicants' claim 1.

Rusch discloses a wireless communication device having one or more radio interfaces, a multi-channel radio controller that characterizes available wireless communication networks, and a wireless connectivity assistant that may select a communication network based on the network characteristics and at least one of user preferences, application requirements, and system information. (Rusch, Abstract). Rusch further discloses switching between wireless links of different wireless networks in response to changing conditions. (Rusch, Col. 6, Lines 13-16).

Rusch, however, fails to teach or suggest Applicants' limitation of "switching from a first one of the network interfaces to a second one of the network interfaces by changing the one of the plurality of device drivers with which the multi-interface driver communicates, while hiding the switching from the network layer," as claimed in Applicants' claim 1. Although Rusch discloses switching between wireless links of

different wireless networks in response to changing conditions, Rusch is devoid of any teaching or suggestion that switching between wireless networks is performed such that the switch is hidden from the network layer, as claimed in Applicants' claim 1.

Rather, Rusch merely states that a multi-channel radio controller may switch from using one wireless communication network to using another wireless communication network, as appropriate. Rusch is devoid of any teaching or suggestion that the multi-channel radio interface 110, or any other component of the wireless communication device, switches between wireless networks in a manner that hides the switch from the network layer.

As such, Applicants' claim 1 is patentable over Rusch under 35 U.S.C. 103(a). Similarly, independent claims 14 and 22 recite relevant limitations similar to those recited in independent claim 1. Therefore, for at least the same reasons discussed above, independent claims 14 and 22 also are patentable over Rusch under 35 U.S.C. 103(a). Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Rusch.

Therefore, the rejection should be withdrawn.

Claims 5-9, 18-20, 23

Claims 5-9, 18-20, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rusch. The rejection is traversed.

According to MPEP §2143, to establish a prima facie case of obviousness under §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The Office Action failed to establish a *prima facie* case of obviousness, because Rusch fails to teach or suggest all the claim elements of Applicants' claim 1.

Rusch discloses a wireless communication device having one or more radio interfaces, a multi-channel radio controller that characterizes available wireless communication networks, and a wireless connectivity assistant that may select a communication network based on the network characteristics and at least one of user preferences, application requirements, and system information. (Rusch, Abstract). Rusch further discloses switching between wireless links of different wireless networks in response to changing conditions. (Rusch, Col. 6, Lines 13-16).

Rusch, however, fails to teach or suggest at least the limitation of "selecting one of the network interfaces based on the characteristics of the respective network interfaces, wherein a weight applied to the user priority value for each network interface depends on the respective signal strength for the network interface," as claimed in Applicants' claim 1.

Although Rusch discloses characterizing available wireless networks and selecting one of the available wireless networks based on the characterizations of the available wireless networks, Rusch merely describes information which may be used in characterizing available wireless networks. Specifically, Rusch states that radio controller 110 may determine current network and service information, monitor communications of the available wireless networks, interrogate available wireless networks, determine geographic location information. Rusch further states that element 118 stores system information such as battery/power characteristics, video display characteristics, and other information, and that element 116 stores user preferences such as preferred communication carrier, quality preferences, power constraints, and privacy information. (Rusch, Col. 4 – Col. 5).

Rusch, however, is devoid of any teaching or suggestion of any weights applied to user priority values, much less that a weight applied to the user priority value for a network interface depends on the respective signal strength for that network interface, as claimed in Applicants' claim 5. Although Rusch describes some examples of user preferences that may be used in selecting an available wireless network, Rusch is devoid of any teaching or suggestion of any weight applied to a user priority value, much less

that a weight applied to the user priority value for a network interface depends on the respective signal strength for that network interface, as claimed in Applicants' claim 5.

As such, Applicants' claim 5 is patentable over Rusch under 35 U.S.C. 103(a). Similarly, independent claims 18 and 23 recite relevant limitations similar to those recited in independent claim 1. Therefore, for at least the same reasons discussed above, independent claims 18 and 23 also are patentable over Rusch under 35 U.S.C. 103(a). Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Rusch.

Therefore, the rejection should be withdrawn.

Claims 10 and 11

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rusch in view of Ayyagari. The rejection is traversed.

Each ground of rejection applies only to dependent claims, and each is predicated on the validity of the rejection under 35 U.S.C. 103 given Rusch. Since the rejection under 35 U.S.C. 103 given Rusch has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that Ayyagari supplies that which is missing from Rusch to render the amended independent claims obvious, these grounds of rejection cannot be maintained..

Therefore, the rejection should be withdrawn.

Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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